



# GENERAL ASSEMBLY COMMONWEALTH OF KENTUCKY

## 2009 REGULAR SESSION

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HOUSE BILL NO. 249

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TUESDAY, FEBRUARY 24, 2009

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The following bill was reported to the Senate from the House and ordered to be printed.

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TREY GRAYSON  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adles

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AN ACT relating to approval of capital projects.

***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

1        ➔ Section 1. KRS 56.491 is amended to read as follows:

- 2        (1) No state agency shall have power or authority to make plans and specifications,  
 3        provide public notice of invitations for bids, let contracts, or incur any financing  
 4        commitments, either in the way of a charge against public funds or in the way of  
 5        negotiations for issuance of revenue bonds, for any capital construction projects  
 6        involving the improvement of lands or the construction, alteration, reconstruction,  
 7        or major repair of any building or other structure, or sewage disposal or water  
 8        supply system, requiring the expenditure of more than two hundred fifty~~two~~  
 9        ~~hundred~~ thousand dollars (\$250,000)~~(\$200,000)~~ without first securing the  
 10       approval of the Finance and Administration Cabinet.
- 11       (2) The state agency seeking the approval shall submit to the Finance and  
 12       Administration Cabinet a general description of the proposed project, with the  
 13       detailed information the cabinet may require. Review of construction plans for  
 14       conformance with the Uniform State Building Code shall be conducted by the  
 15       Office of Housing, Buildings and Construction. The Finance and Administration  
 16       Cabinet shall not approve any project requiring its approval in any instance if it  
 17       finds that: the project is not needed; the proposed method of financing is not sound;  
 18       the project will exceed the amount of the funds available therefor; the work  
 19       contemplated will be insufficient to accomplish the purpose of the project; or after  
 20       providing for the ordinary recurring expenses of government and debt service and  
 21       for payments under existing allotments for extraordinary expenses and capital  
 22       outlay, cash will not be available in the State Treasury to promptly pay for the work  
 23       during the biennium, or except as provided in subsection (5) of this section, that the  
 24       work is to be done by employees of the agency.
- 25       (3) The finding of the Finance and Administration Cabinet shall be final, except in

1 cases where the issuance and sale of bonds is proposed, in which cases the cabinet  
 2 shall submit its findings to the commission for final approval, modification, or  
 3 disapproval.

4 (4) Any capital construction project, the total cost of completion of which the Finance  
 5 and Administration Cabinet determines will exceed two hundred fifty~~[two hundred]~~  
 6 thousand dollars (\$250,000)~~[\$200,000]~~, shall be contracted for on a competitive  
 7 bid basis, and the execution of the contracts shall be approved and authorized by the  
 8 cabinet. When a capital construction project has been approved as provided in this  
 9 section, in whole or in part, the cabinet shall prepare the plans and specifications,  
 10 provide public notice of invitations for bids, award the contracts, supervise the  
 11 construction, and handle the financial negotiations on behalf of the requesting state  
 12 agency; or with prior written approval, the cabinet may authorize a state agency to  
 13 do so with delegated authority of the cabinet.

14 (5) A capital construction project, the total cost of completion of which the Finance and  
 15 Administration Cabinet determines will not exceed two hundred fifty~~[two hundred]~~  
 16 thousand dollars (\$250,000)~~[\$200,000]~~, may be performed by the employees of  
 17 the requesting agency or by individuals hired specifically for the project who shall  
 18 be exempt from the requirements of KRS Chapter 18A, if the project is approved  
 19 and authorized by the cabinet. Necessary materials and supplies shall be procured in  
 20 accordance with the standard purchasing procedures and policies of the cabinet as  
 21 defined in KRS Chapter 45A.

22 (6) This section shall not apply to capital outlays to the Department of Highways for  
 23 roads and bridges.

24 (7) This section shall not apply to capital outlays by the Justice and Public Safety  
 25 Cabinet for repair, maintenance, improvement, or expansion of present correctional  
 26 facilities on which projects inmates are used. Any capital construction project to be  
 27 performed by the Justice and Public Safety Cabinet shall be approved and

1 authorized by the Finance and Administration Cabinet.

2 (8) This section shall not apply to surveys capable of being performed by employees of  
3 the Department of Fish and Wildlife Resources. Boundary surveys or surveys  
4 involving property lines shall be performed by or under the supervision of an  
5 employee possessing a professional land surveyor license.

6 ➔Section 2. KRS 164A.585 is amended to read as follows:

7 (1) Subject to authorization by the General Assembly and KRS 164A.580, the  
8 governing boards may make plans and specifications, advertise for bids, let  
9 contracts or incur any financing commitments, either in the way of a charge against  
10 institution funds or in the way of negotiations for issuance of revenue bonds, for any  
11 capital construction projects involving the improvement of lands or the  
12 construction, alteration, reconstruction, or major repair of any building or other  
13 structure, or sewage disposal, water supply system or other utility system.

14 (2) Review of construction plans for conformance with the uniform state building code  
15 shall be conducted by the Office of Housing, Buildings and Construction. The board  
16 shall not approve any such project requiring its approval in any instance where it  
17 finds that the project is not needed, or that the proposed method of financing is not  
18 sound, or in cases where the project will exceed the amount of the funds available  
19 therefor, or the work contemplated will be insufficient to accomplish the purpose of  
20 the project, or that after providing for the ordinary recurring expenses of  
21 administration and debt service and for payments under existing allotments for  
22 extraordinary expenses and capital outlay, cash will not be available in the Treasury  
23 to promptly pay for the work or that the work is to be done by employees of the  
24 institution.

25 (3) Any capital construction project, except as provided in subsection (4) of this  
26 section, shall be contracted for on a competitive bid basis, and the execution of such  
27 contracts shall be approved and authorized by the board. When a capital

1 construction project has been approved as provided in this section, in whole or in  
 2 part, the board shall prepare the plans and specifications, advertise for bids, award  
 3 the contracts, supervise the construction and handle the financial negotiations.

4 (a) The governing board shall ensure that every invitation for bids or request for  
 5 proposals shall provide that an item equal to that named or described in the  
 6 specifications may be furnished.

7 (b) The specifications may identify a sole brand in cases where, in the written opinion  
 8 of the chief procurement officer, documented unique and valid conditions require  
 9 compatibility, continuity, or conformity with established standards.

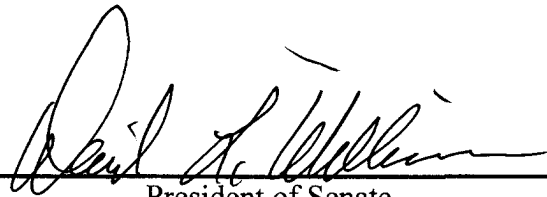
10 (c) An item shall be considered equal to the item named or described if, in the opinion  
 11 of the governing board and the design professional responsible for the  
 12 specifications:

- 13 1. It is at least equal in quality, durability, strength, design, and other criteria  
 14 deemed appropriate;
- 15 2. It will perform at least equally the function imposed by the general design for  
 16 the public work being contracted for or the material being purchased; and
- 17 3. It conforms substantially to the detailed requirements for the item in the  
 18 specifications.

19 (4) A capital construction project, the total cost of completion of which will not exceed  
 20 two hundred fifty~~[two hundred]~~ thousand dollars (\$250,000)~~[\$200,000]~~, may be  
 21 performed by the employees of the institution or by individuals hired specifically  
 22 for the project. Necessary materials and supplies shall be procured in accordance  
 23 with the standard purchasing procedures and policies of the board as defined in  
 24 KRS 164A.575.

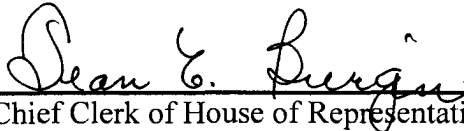


Speaker, House of Representatives



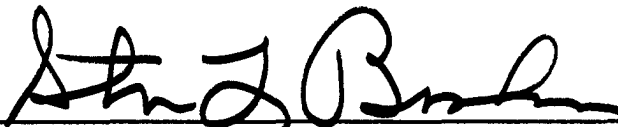
President of Senate

Attest:



Chief Clerk of House of Representatives

Approved



Governor

Date

March 24, 2009